

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSHUA ALGER,

Plaintiff,

Case No. 18-cv-13280

Hon. Matthew F. Leitman

v.

ECF DENTIST, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR
RECONSIDERATION (ECF No. 59) WITHOUT PREJUDICE**

Plaintiff Joshua Alger is an inmate in the custody of the Michigan Department of Corrections (the "MDOC"). In this action, Alger alleges that Defendant Bobby Echols, a dentist employed by the MDOC, and others, were deliberately indifferent to his medical needs in violation of the Eighth Amendment. (*See* Compl., ECF No. 1.)

On September 3, 2021, the Court issued an order in which it held, among other things, that it needed to hold "a bench trial on the issue of whether Alger failed to exhaust his administrative remedies." (Order, ECF No. 56, PageID.459.) The Court thereafter appointed counsel for Alger. (*See* Order, ECF No. 57.)

On October 22, 2021, Alger, through appointed counsel, filed a motion for reconsideration of the Court's September 3 order. (*See* Mot., ECF No. 59.) In the

motion, Alger contends that a bench trial is “unnecessary” because he exhausted his claims in an April 24, 2015 grievance. (*Id.*, PageID.472.) The Court ordered Echols to respond to the motion for reconsideration (*see* Order, ECF No. 60), and Echols filed that response on November 18, 2021. (*See* Resp. to Mot. for Reconsideration, ECF No. 61.)

The Court has carefully reviewed Alger’s motion, and Echols’ response, and it is not yet persuaded that, as a matter of law, Alger’s April 24, 2015 grievance exhausted his claims against Echols. Alger’s motion is therefore **DENIED WITHOUT PREJUDICE**. Alger may re-raise all of the arguments made in his motion during the forthcoming bench trial that the Court will hold on the exhaustion issue.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: November 23, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 23, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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